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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,914	08/29/2001	Thomas Telscher	F-7091	7657

7590 07/09/2003
JORDAN AND HAMBURG LLP
122 East 42nd Street
NEW YORK, NY 10168

EXAMINER

SELF, SHELLEY M

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 07/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K.

Office Action Summary	Application No.	Applicant(s)	
	09/941,914	TELSCHER, THOMAS	
	Examiner	Art Unit	
	Shelley Self	3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 August 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 14. A proposed drawing correction or corrected drawings are required in reply to the Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities:

Reference character 25 is used to denote an elastic guide (pg. 7) and a new knot (pg. 8)

Reference character 35 is used to denote an elastic guide (pg. 8) and a new knot (pg. 8)

Reference character 36 is used to denote a yarn presser (pg. 8) and a contactor (pg. 9)

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 6 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which

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it is most nearly connected, to make and/or use the invention. The specification fails to support a *“tying material consists of a material without strong and long fibers, which can be dissolved when wet.”*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to claim 6, the omission of a transitional phrase renders a clear understanding of the claim difficult. The claim fails to positively recite the critical interrelationship between all of the elements. For example it is not clear how the supplying arm and the outlet slots relate to the bale press. Additionally, line 7 of the claim states, *“supplying arm”*; however line 9 states *“supplying arms”*, it is not clear as to whether there are a plurality of supplying arms or a single supplying arm.

With regard to claims 1 and 3, the terms especially (clm. 1) and preferably (clm. 3) render the claim vague and indefinite.

With regard to claim 2, it is unclear what is meant by *“the supplying arm and the supplying arm (12) is moved essentially...”* Examiner suggests deletion of duplicated terms.

The claims should be reviewed for clarity and definiteness.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1, 2, 4 and 5, as best as can be understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Persson (3,667,377). With regard to claim 1, Persson discloses a bale press (fig. 1) for loose material with a filling space (11) a press ram (12) having openings (fig. 3, a pressing channel (11), knotters/twisters (28), two opposite strands (15, 25) and a supplying arm (fig. 4).

With regard to claim 2, as best as can be understood, Persson discloses a press ram having driving mechanism (fig. 1), which is station during the supplying movement of the supply arm.

With regard to claim 4, as best as can be understood, Persson disclose a tape loop consists of tying material (15, 25) which has not been knotted and is supplied from a single, one-sided supply of binding material (16, 26), the free end of the binding material being held in the knotter after it is cut.

With regard to claim 5, as best as can be understood, Persson discloses tape loops consists of two strands (15, 25) of tying material supplied from tying material supply (16,26) and providing the strands with knots.

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-9, 11-19, 22-36, 39-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Persson (3,667,377). With regard to claims 7, 25, 41, 43 and 44, Persson discloses means defining a filling space (11), means defining a pressing channel (fig. 1), a press ram (12) including channels and outlet slots in a front surface of said press ram (fig. 3), a plurality of knotting/twister devices (28), supply means (16, 26) for supplying typing material (15, 25) to said knotting devices, supply arms (31) each carrying a respective one of the first strands and movable in a respective one of said channels of said press ram to thereby carry the first strand from one side of the bale to an opposite side of the bale. Persson does not disclose knotting devices arranged at an inlet of said pressing channel. It would have been obvious to one having ordinary skill in the art at the time of the invention to locate the knotting devices at an inlet of said pressing channel, since it has been held that rearranging part of an invention involves only routine skill in the art.

With regard to claims 8 and 26, Persson discloses knotting devices (28) arranged next to one another on a common side of said pressing channel (fig. 1).

With regard to claims 9, 27 and 42, Persson discloses driving means for moving said press ram through said filling space, said driving means being arranged to be stationary during movement of said supply arms through said channels.

With regard to claims 11 and 28, Persson discloses driving means for moving said supply arms (col. 2, lines 65-75).

With regard to claim 12, Persson discloses a pressure medium actuated driving mechanism for moving each of said supply arms (col. 2, lines 65-75).

With regard to claims 13 and 29, Persson discloses each of said supply arms includes a guide (col. 2, lines 57-61) through which a respective first strand passes.

With regard to claims 14 and 30, Persson discloses knotting devices (28) arranged on a first side of said pressing channel and said supply arms (31) arranged on a second, opposite side of said pressing channel (figs. 1-3).

With regard to claims 15 and 31, Persson discloses guide means (27, 27') arranged on said second side of said pressing channel.

With regard to claims 16, 17, 32 and 33, Persson discloses said knotting devices are arranged to retain free ends of the tying material after the first and second strands have been cut after formation of the knot (col. 3, lines 15-75), said knotting devices arranged to form an additional knot from the free ends of the tying material.

With regard to claim 6 as best as can be understood, and claims 18 and 34, Persson does not disclose supply means comprise rolls of water-soluble tying material or material without strong and long fibers. It would have been obvious to one having ordinary skill in the art at the time of the invention to construct Persson having supply means comprising rolls of water-soluble material or of material without strong and long fibers, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

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With regard to claims 19 and 35, Persson discloses said supply arms have a sickle shape (fig. 4; col. 2, line 75).

With regard to claim 22, Persson disclose said outlet slots having a width substantially corresponding to a width of said supply arms (fig. 3).

With regard to claim 23, 24, 39 and 40, with regard to claims 23 and 39, Persson discloses binding said knotting devices being arranged to retain free ends of said binding material after the first and second strands have been cut after formation of the knot.

Persson discloses supply means of tying material arranged on each side of a pressing channel. Persson does not disclose the supply means to be rolls (clms. 23, 24, 39, 40). It would have been an obvious matter of design choice to construct the supply means of any shape so as to consistently dispense the tying material for binding the bale. The specific selection of rolls requires only routine skill in the art.

With regard to claim 36, Persson disclose rotation means for imparting a rotational movement to said supply arms (fig. 4).

Claims 3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Persson (3,667,377) in view of Tea (4,092,913). Persson does not disclose the ram including a pressure medium-actuated driving mechanism. Tea teaches in a bale tying apparatus the use of a hydraulic operated ram. Because the references are from a similar art, it would have been obvious at the time of the invention to one having ordinary skill in the art to replace Persson's drive means with a pressure medium/hydraulic driving mechanism as taught by Tea so as to drive the ram.

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Claims 20, 21, 37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Persson (3,667,377) in view of White 4,074,623). Persson does not disclose a lever connected to each of said supply arms. White teaches the use of a lever (fig. 1) connected to the supply arm wherein the lever has a arm extending from an axis and a second arm extending from said axis is a second end of said lever, further comprising a driving mechanism (fig. 1). White teaches this construction for ease of pivoting the supply arm(s) to bind material. Because the references are from a similar art and deal with a similar problem (i.e. pivoting of the supply arm) it would have been obvious at the time of the invention to provide Persson with the supply arm and lever construction as taught by White so as to provide improve pivoting of the supply arm to bind the baled material.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is (703) 305-5299. The examiner can normally be reached Mon-Fri from 8:30am to 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Allen Ostrager can be reached at (703) 308-3136. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

SSelf
June 23, 2003



ALLEN OSTRAGER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700